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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

09/900,262

Applicant(s)

PARK, JOSEPH MIN H.

Examiner

WILLIAM CARPENTER

Art Unit

3767

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 5, 6, 9, 10, 12, 13 and 22-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5, 6, 9, 10, 12, 13, and 22-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 July 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-944)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a) because they fail to show "the protective suit is connected to the plurality of herb essence suppliers via a hose" as described in the specification and Claim 29. Additionally, the "upper cover includes a plurality of protrusions" described in the specification and Claim 31 must be shown. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top

margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1 and its dependents are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding Claim 1, Applicant recites the limitation "a first coating layer comprising a mixture of powders of mastodon bones, an elvan, mica, and a loadstone". Examiner submits that the "mixture" while disclosed in the specification is only provided with one working example, comprising: about 10 to 20% by weight of a fulcrum stone, about 10 to 20% by weight of mastodon bones, about 30 to 40% by weight of an elvan, about 10 to 20% by weight of mica, and about 10 to 20% by weight of a lodestone, with an apparent criticality to this exact composition as being required to produce the efficacious results of the therapeutic device (see Summary of the Invention). Examiner

submits that Applicant was not in possession at the time of filing an invention that has, as broadly recited, "coating layer" comprising only the four claimed ingredients, particularly without the claimed ranges. Examiner submits that to claim the "coating layer" with adequate new matter support the claims must recite all five substances, including the omitted "fulcrum stone", as well as the originally claimed ranges. The claims as currently written comprise an impermissible broadening of the claims.

5. Claims 1 and its dependents are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding Claim 1, Applicant recites a "coating layer" which fails to include essential subject matter required for its completeness, namely the recitation in the specification of the "fulcrum stone". Examiner submits that the phrase "fulcrum stone" being essential for the completeness of the "coating layer" to provide its therapeutic effects, is not a recognized substance and therefore one having ordinary skill in the art would be unable to procure it to form the essential qualities of the "coating layer". Examiner notes that in the Remarks filed 06 April 2010 Applicant alleges that the phrase "fulcrum stone" is more accurately translated as "hematite", pointing to the specific characters and location in the specification for support. Since this foreign priority document was incorporated by reference a mistranslation can be corrected. However, such a translation must comprise the entirety of the original foreign priority document,

as well as an accompanying declaration by the translator asserting that the accompanying translation is accurate and correctly translated to the best of his/her abilities, *see MPEP 201.13(ii)(g)*. The specification of the domestically filed application must be amended to change the phraseology of "fulcrum stone" to hematite in accordance with the certified translation of the foreign priority document.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 1, 5, 22, and 26-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,497,717 ("Daffer") in view of US Patent No. 6,745,411 ("Kjonaas"), US Patent No. 4,680,822 ("Fujino"), US Patent No. 5,880,044 ("Shimiz"), US Patent No. 6,108,581 ("Jung"), US Patent No. 6,666,813 ("Ardizzone"), US Patent No. 6,143,946 ("Docter"), *Heat induced transformation of fossil mastodon*

ivory into turquoise 'odontolite'. Structural and elemental characteristics ("Reiche"), US Patent No. 6,272,697 ("Park"), US Patent No. 5,425,753 ("Wege"), US Patent No. 3,946,733 ("Han"), US Patent No. 4,203,438 ("Shiu"), and Japanese Patent No. H-06-181878 ("Sakurai").

Regarding Claims 1 and 5, Daffer discloses a therapeutic device (10). Daffer discloses the device to comprise an upper cover (28) being adjustable in temperature (46) and a lower mat (14), coupled to the upper cover and being adjustable in temperature (35) and forming vibrators (66A and 66B), wherein the upper cover and the lower mat define an interior space (16).

Daffer discloses that the upper cover and lower mat are adjustable in temperature via a thermostat, however, Daffer fails to explicitly disclose the precise range of temperature adjustment. However, Kjonaas discloses a similar therapeutic system (10) which is temperature adjustable to various temperatures, specifically citing 41 degrees Celsius, but also disclosing other systems that can heat as high as 66 or 82 degrees Celsius depending on the relative humidity therein (Col. 5, Ln. 9-27) to provide efficacious results without harming certain individuals. As such, it would have been obvious for one having ordinary skill in the art at the time the invention was made to configure the invention of Daffer to be adjustable in temperature to 41 degrees Celsius, as disclosed by Kjonaas, in order to provide therapeutic results without risking the health of individual users. It has been held that a value within a claimed range anticipates said range.

Daffer fails to explicitly disclose that the upper cover and the lower mat are provided with a "five-primary substance stone coating". In the instant case the phrase "five-primary substance stone" is held to define a type of stone that is formed from at least five substances in accordance with its broadest reasonable interpretation, the phrase not being inextricably linked to any specific composition of matter. However, Fujino discloses a system configured to delivery far infrared radiation to the human body in order to improve the health thereof. Fujino discloses that this invention comprises forming a coating of "five-primary substance stone", i.e. ordinary clay, kibushi clay, pulverized silica stone, one of aluminum oxide, zirconium oxide, or silicon oxide, and water (Col. 1, Ln. 59 – Col. 2, Ln. 7). Fujino discloses that this particular compound is particularly beneficial for radiating infrared electromagnetic waves for beneficial healing effects to the human body, activating the cells and warming the body from the inside (Col. 2, Ln. 8-22). It would have been obvious for one having ordinary skill in the art at the time the invention was made to provide the invention of Daffer with a five-primary substance stone coating, as disclosed by Fujino, in order to radiate beneficial infrared energy to the body, activating the cells and helping to warm the body to encourage sweating. It is noted that Daffer discloses delivering infrared energy (46) to the body to encourage heating of the body.

In the instant case neither Daffer nor Fujino disclose that the far five-primary substance coating should be formed of a combination of mastodon bones, elvan, mica, and loadstone.

However, Shimiz discloses that elvan is known to be a "natural mineral material which radiates infrared rays and has antibacterial properties" (Col. 1, Ln. 5-25). As such, it would have been obvious for one having ordinary skill in the art at the time the invention was made to include elvan as part of the "five-primary substance stone" of the modified invention of Daffer, as disclosed by Shimiz, in order to produce the efficacious results of far infrared heating as well as for the antibacterial properties of the elvan.

Additionally, Jung discloses a similar invention for using far infrared radiation for its purported healing purposes. Jung discloses that the device should utilize mica for the padding/coating in order to help diffuse the infrared radiation (Col. 1, Ln. 61-63). As such, it would have been obvious for one having ordinary skill in the art at the time the invention was made to include mica as part of the "five-primary substance stone" of the modified invention of Daffer, as disclosed by Jung, in order to produce the efficacious results of far infrared heating.

Furthermore, Ardizzone discloses a therapeutic device comprising bio-ceramic fibers. Ardizzone discloses that the device is configured to emit far infrared radiation (Col. 2, Ln. 36-41). Ardizzone discloses that the device may include magnets (i.e. loadstone/lodestone) to accompany the emission of infrared radiation (Abstract). It would have been obvious for one having ordinary skill in the art at the time the invention was made to include magnets/loadstone/lodestone to the "five-primary substance stone" of the modified invention of Daffer, as disclosed by Ardizzone, in order to produce the efficacious results of far infrared heating along with magnetotherapy.

Finally, none of the cited references explicitly disclose the use of mastodon bones as part of a "five primary substance stone". However, Docter discloses a therapeutic mat (10) that includes a crystal composition which is intended to be used for holistic treating or bodily wounds, injuries, skin aging disorders, and diseases (Col. 1, Ln. 5-10). Docter discloses that the crystal composition may comprise turquoise (col. 2, Ln. 63 - Col. 3, Ln. 7). It would have been obvious for one having ordinary skill in the art at the time the invention was made to utilize ground turquoise crystals within the five primary substance stone of the modified invention of Daffer, as disclosed by Docter, in order to use the crystal for a holistic approach in treating the body diseases. One well-known source of turquoise crystals is the heat induced transformation of fossil ivory into turquoise 'odontolite' as is disclosed by Reiche (Introduction). As such, it would have been obvious for one having ordinary skill in the art at the time the invention was made to use mastodon bones to form the turquoise of the modified invention of Daffer, as disclosed by Reich, thereby only achieving the expected results of using one well-known source of turquoise.

In the instant case the above references clearly establish the minerals of mastodon bones, elvan, mica, and lodestone to be result effective variables for the purpose of composing a five primary substance stone for the purpose of holistic healing of the human body.

In the instant case, Daffer only discloses that infrared energy should be delivered from the upper cover (Fig. 28), not the lower mat. However, it is noted that Fujino discloses the infrared radiating material to be part of a bedding, i.e. a lower mat. As

such, it would have been obvious for one having ordinary skill in the art at the time the invention was made to provide the lower mat of the device of Daffer with an infrared radiating coating, as disclosed by Fujino, in order to ensure that the body was adequately exposed to infrared energy.

However, should Examiner's arguments not be found persuasive the following is presented. Park discloses an invention similar to that disclosed by Daffer configured to eliminate poisons and pollutants from the body by encouraging sweating (Abstract). Park discloses the device to comprise an upper cover (16) and a lower mat (54). Park discloses both the upper cover and the lower mat to be provided with infrared generating means (74) for generating far infrared radiation in order to heat and activate the user's body. It would have been obvious for one having ordinary skill in the art at the time the invention was made to provide the lower mat of the invention of Daffer with an infrared radiation generating means, as disclosed by Park, having a infrared radiating coating, as disclosed by Fujino, in order to ensure that the user's body is adequately exposed to beneficial infrared radiation.

While Daffer does disclose that the device should be configured to circulate air via a fan/pump (61), Daffer fails to disclose that this air is provided with an herb essence. However, Wege demonstrates that it is well known to utilize herbs to generate moist medicinal air in conjunction with steam baths/saunas (Col. 3, Ln. 44-64). Wege provides the device with an herb essence supplier (4) connected to the interior space formed between an upper cover (2) and lower mat (1), the herb essence supplier having a discharge outlet (38 and 36) connected to the interior space in order to deliver the

herb essence, the supplier being disposed externally to the interior space (Fig. 3). However, Wege fails to disclose that the herb essence supplier comprises an air pump. However, Han discloses an herb essence supplier (10) configured to deliver medical herbal air to a patient (Abstract). Han discloses the herb essence supplier to comprise a discharge outlet (58) to deliver the herbal air to the skin (Fig. 1) and an air pump (18) to supply air to the herbal essence supplier (Fig. 1). It would have been obvious for one having ordinary skill in the art at the time the invention was made to utilize an herbal essence supplier operatively connected to an air pump, as disclosed by Han, in order to deliver medical herbal air to the interior chamber of Daffer, as disclosed by Wege, in order to help cleanse and detoxify a patient. Han discloses the herb essence supplier to comprise a combustion type herb essence supplier for burning the herb (51) contained therein to supply the perfume therefrom (Abstract).

Daffer and Han fail to explicitly disclose that the herb essence suppliers also include a "heating-type essence supplier" and a "vibration-type herb essence supplier" in addition to the combustion-type herb essence supplier of Han. However, Shiu discloses an apparatus comprising a plurality of herb essence suppliers provided in parallel in order to deliver herb essence to a patient's skin (Abstract; Fig. 6). It would have been obvious for one having ordinary skill in the art at the time the invention was made to modify the invention of Daffer to comprise a plurality of herb essence suppliers provided in parallel, as disclosed by Shiu, in order to provide a sufficient quantity of herb essence to the patient's tissue. It has been held that pluralizing the essential working parts of an invention requires only routine and customary skill in the art. In the instant

case Examiner submits that pluralizing the combustion type herb essence supplier of Han would also result in the inclusion of a "heating-type" herb essence supplier since the essence supplier heats the herb via combustion, thereby satisfying the metes and bounds of the claims.

Sakurai discloses that it is well known to release the essential oils and aromatic compounds of a substance by atomizing it with ultrasonic vibrations (Par. 4). It would have been obvious for one having ordinary skill in the art at the time the invention was made to utilize vibrational forces to release the herbal essences of the modified invention of Daffer, as disclosed by Sakurai, thereby only achieving the expected results of utilizing one well-known means to release herbal essences within an air supply.

Regarding Claim 22, Daffer, as modified, discloses the invention substantially as claimed except that upper cover and lower cover comprise the specific composition recited by the claims. Daffer, as discussed above, discloses the claimed vibrators. However, Jung discloses a mat (10) configured to diffuse far infrared radiation. Jung discloses this mat to comprise an upper cover cloth (12), a sponge (16), an insulation material (28), a hot wire (26), an aluminum sheet (22), a non-woven fabric (20), and a lower cover cloth (14). Jung discloses a lower mat comprising an upper cover cloth (14), a non-woven fabric (20), first and second aluminum sheets (24 and 22), a hot wire (26), an insulation material (28), a buffering material (30), and a lower cover cloth (12). It would have been obvious for one having ordinary skill in the art at the time the invention was made to provide the mat of the device of Jung to the upper and lower covers of the modified invention of Daffer in order to diffuse beneficial infrared radiation to the patient.

Regarding Claim 26, Daffer, as modified by Wege, discloses that the discharge outlet of the herb essence suppliers arte connected to the interior space via a hose (36) connected to the lower mat (Fig. 3, Wege).

Regarding Claims 27-29, Daffer, as modified, discloses that the interior space is sized to receive a human body wearing a protective suit made of non-woven fabrics and waterproof coating material, the protective suit being coated with the mixture on the interior and connected to the plurality of herb essence suppliers via a hose. Examiner notes that the suit is not positively required part of the claimed workpiece, only the capability of the device to accommodate such a suit.

Regarding Claim 30, in the instant case the above references clearly establish the minerals of hematite, mastodon bones, elvan, mica, and lodestone to be result effective variables for the purpose of composing a five primary substance stone for the purpose of holistic healing of the human body. As such, the percent composition of these substances within the five primary stone substance is held to been established as a result effective variable. It would have been obvious for one having ordinary skill in the art at the time the invention was made to form a five primary substance stone of the device of Daffer to comprise 10-20% hermatite, 10-20% mastodon bones, 30-40% elvan, 10-20% mica, and 10-20% lodestone, since it has been held that discovering the optimal or workable range of a result effective variable requires only routine and customary skill in the art.

9. Claims 2 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,497,717 ("Daffer"), US Patent No. 6,745,411 ("Kjonaas"), US Patent

No. 4,680,822 ("Fujino"), US Patent No. 5,880,044 ("Shimiz"), US Patent No. 6,108,581 ("Jung"), US Patent No. 6,666,813 ("Ardizzone"), US Patent No. 6,143,946 ("Docter"), *Heat induced transformation of fossil mastodon ivory into turquoise 'odontolite'.* *Structural and elemental characteristics* ("Reiche"), US Patent No. 6,272,697 ("Park"), US Patent No. 5,425,753 ("Wege"), US Patent No. 3,946,733 ("Han"), US Patent No. 4,203,438 ("Shiu"), and Japanese Patent No. H-06-181878 ("Sakurai") as applied to Claim 1 above, and further in view of US Patent No. 5,632,768 ("Shimada").

Regarding Claims 2 and 6 Daffer, as modified, discloses the invention substantially as claimed except one of the herb essence suppliers utilizes electrical resistive wiring to evaporate/combust the herb essence. However, Shimada discloses a system (10) configured to supply herb essence (Abstract). Shimada discloses that the device may be provided with an electrical resistive heating wire in order to evaporate the herbal essences (Col. 5, Ln. 60 – Col. 6, Ln.3). It would have been obvious for one having ordinary skill in the art at the time the invention was made to utilize an electrical resistive heating wire to evaporate the herbal essence of the modified invention of Daffer, as disclosed by Shimada, thereby only achieving the expected results of utilizing one well-known means of release herbal essences within an air supply.

10. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,497,717 ("Daffer"), US Patent No. 6,745,411 ("Kjonaas"), US Patent No. 4,680,822 ("Fujino"), US Patent No. 5,880,044 ("Shimiz"), US Patent No. 6,108,581 ("Jung"), US Patent No. 6,666,813 ("Ardizzone"), US Patent No. 6,143,946 ("Docter"), *Heat induced transformation of fossil mastodon ivory into turquoise 'odontolite'.*

Structural and elemental characteristics ("Reiche"), US Patent No. 6,272,697 ("Park"), US Patent No. 5,425,753 ("Wege"), US Patent No. 3,946,733 ("Han"), US Patent No. 4,203,438 ("Shiu"), and Japanese Patent No. H-06-181878 ("Sakurai") as applied to Claim 1 above, and further in view of US Patent No. 4,747,841 ("Kuratomi") and US Patent No. 5,632,768 ("Shimada")

Regarding Claim 9, Daffer, as modified, discloses the invention substantially as claimed except that invention further comprises an attachment device connected to the discharge outlet of an herb essence supplier, the attachment device having a five-primary substance stone coating on at least a bottom surface thereof. However, Kuratomi discloses an herb essence supplier (3) comprising an attachment device configured to contact a users body (7). Kuratomi discloses that the herb essence supplier is configured to radiate infrared energy to the user's tissue (Col. 3, Ln. 29-31). While Kuratomi fails to explicitly disclose that the attachment device is provided with a five-primary substance stone coating, as discussed above, Fujino discloses a five-primary stone coating configured to radiate infrared energy (Col. 2, Ln. 8-22). As such, it would have been obvious for one having ordinary skill in the art at the time the invention was made to provide the attachment device of the invention of Kuratomi with a five primary substance stone coating, as disclosed by Fujino, in order to better radiate infrared energy to a patient's tissue. It would have been obvious for one having ordinary skill in the art at the time the invention was made to provide the herbal essence suppliers of the invention of Daffer with an attachment device comprising a five-primary

stone coating, as disclosed by Kuratomi in view of Fujino, in order to deliver targeted infrared energy to various localized tissue areas.

Kuratomi fails to explicitly disclose that the attachment device is made of a ceramic material. However, Shimada discloses a similar attachment device (10) also configured to supply herb essence to a patient (Abstract; Fig. 8). Shimada discloses that such an attachment mechanism should be formed of a ceramic (Col. 4, Ln. 32-44) based on its adequate corrosion and heat resistance. It would have been obvious for one having ordinary skill in the art at the time the invention was made to form the attachment device of the modified invention of Daffer to comprise a ceramic, as disclosed by Shimada, in order to ensure sufficient heat and corrosion resistance is provide.

11. Claims 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,497,717 ("Daffer"), US Patent No. 6,745,411 ("Kjonaas"), US Patent No. 4,680,822 ("Fujino"), US Patent No. 5,880,044 ("Shimiz"), US Patent No. 6,108,581 ("Jung"), US Patent No. 6,666,813 ("Ardizzone"), US Patent No. 6,143,946 ("Docter"), *Heat induced transformation of fossil mastodon ivory into turquoise 'odontolite'.* *Structural and elemental characteristics* ("Reiche"), US Patent No. 6,272,697 ("Park"), US Patent No. 5,425,753 ("Wege"), US Patent No. 3,946,733 ("Han"), US Patent No. 4,203,438 ("Shiu"), and Japanese Patent No. H-06-181878 ("Sakurai") as applied to Claim 1 above, and further in view of US Patent No. 6,013,021 ("Lee").

Regarding Claim 10, Daffer, as modified, discloses the invention substantially as claimed except that air pump provides negatively ionized air. However, Lee discloses

using an air pump to deliver negatively ionized air to a user's tissue in order to revitalize their cells (Abstract; Col. 2, Ln. 63 - Col. 3, Ln. 21). It would have been obvious for one having ordinary skill in the art at the time the invention was made to configure the pump of the modified invention of Daffer to deliver negatively ionized air, as disclosed by Lee, in order obtain the beneficial effects of such an air source, revitalizing a user's cell tissue.

12. Claims 12, 13, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,497,717 ("Daffer"), US Patent No. 6,745,411 ("Kjonaas"), US Patent No. 4,680,822 ("Fujino"), US Patent No. 5,880,044 ("Shimiz"), US Patent No. 6,108,581 ("Jung"), US Patent No. 6,666,813 ("Ardizzone"), US Patent No. 6,143,946 ("Docter"), *Heat induced transformation of fossil mastodon ivory into turquoise 'odontolite'. Structural and elemental characteristics* ("Reiche"), US Patent No. 6,272,697 ("Park"), US Patent No. 5,425,753 ("Wege"), US Patent No. 3,946,733 ("Han"), US Patent No. 4,203,438 ("Shiu"), and Japanese Patent No. H-06-181878 ("Sakurai") as applied to Claim 1 above, and further in view of CH Patent No. 683822 ("Zofingen").

Regarding Claim 12, Daffer as modified discloses the invention substantially as claimed except that lower mat further includes a plurality of protrusion for stimulating acupuncture points of the body. However, Zofingen discloses a bed cover/mat (8) that includes a plurality of protrusions (1) configured to stimulate the acupuncture points of the body by non-penetrating contact (see translation). It would have been obvious for one having ordinary skill in the art at the time the invention was made to provide the

lower mat of the device of Daffer with acupuncture stimulating protrusions, as disclosed by Zofingen to provide a holistic approach to disease treatment.

Regarding Claim 13, as the lower mat of the device of Daffer is formed of the five primary substance stone, it would have been obvious for one having ordinary skill in the art at the time the invention was made to form the protrusions of the lower mat to be integral with the mat, and therefore formed of the same five-primary substance stone. It has been held that forming a device as a series of integral components requires only routine and customary skill in the art.

Regarding Claim 31, it would have been obvious for one having ordinary skill in the art at the time the invention was made to also include acupuncture protrusions to the upper cover/bedding of the modified device of Daffer, as disclosed by Zofingen, in order to access acupuncture points located on the anterior surfaces of the human body, such acupuncture points being notoriously well-known in the art.

13. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,497,717 ("Daffer"), US Patent No. 6,745,411 ("Kjonaas"), US Patent No. 4,680,822 ("Fujino"), US Patent No. 5,880,044 ("Shimiz"), US Patent No. 6,108,581 ("Jung"), US Patent No. 6,666,813 ("Ardizzone"), US Patent No. 6,143,946 ("Docter"), *Heat induced transformation of fossil mastodon ivory into turquoise 'odontolite'. Structural and elemental characteristics* ("Reiche"), US Patent No. 6,272,697 ("Park"), US Patent No. 5,425,753 ("Wege"), US Patent No. 3,946,733 ("Han"), US Patent No. 4,203,438 ("Shiu"), and Japanese Patent No. H-06-181878 ("Sakurai") as applied to Claim 22 above, and further in view of US Patent No. 5,787,525 ("Sugihara").

Regarding Claim 23, Daffer, as modified, discloses the invention substantially as claimed except that cloth comprises Jacquard. However, Sugihara discloses heating bedding (420) which comprises covers formed of jacquard (Col. 7, Ln. 40-43). It would have been obvious for one having ordinary skill in the art at the time the invention was made to form the covers of the modified invention of Daffer to comprise jacquard to provide a soft, smooth bedding surface against the user's body.

14. Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,497,717 ("Daffer"), US Patent No. 6,745,411 ("Kjonaas"), US Patent No. 4,680,822 ("Fujino"), US Patent No. 5,880,044 ("Shimiz"), US Patent No. 6,108,581 ("Jung"), US Patent No. 6,666,813 ("Ardizzone"), US Patent No. 6,143,946 ("Docter"), *Heat induced transformation of fossil mastodon ivory into turquoise 'odontolite'. Structural and elemental characteristics* ("Reiche"), US Patent No. 6,272,697 ("Park"), US Patent No. 5,425,753 ("Wege"), US Patent No. 3,946,733 ("Han"), US Patent No. 4,203,438 ("Shiu"), and Japanese Patent No. H-06-181878 ("Sakurai") as applied to Claim 22 above, and further in view of US Patent No. 6,173,675 ("Licciardo").

Regarding Claim 24, Daffer, as modified, discloses the invention substantially as claimed except for explicitly disclose that various types of herbs are supplied in the herb essence suppliers. However, Licciardo discloses bedding (10) which is configured to supply an herb essence comprising a plurality of herbs such as mugwort, lavender flowers, hops buds, lemon verbena, and lemon balm to provide relaxing benefits (Col. 2, Ln. 9-14). It would have been obvious for one having ordinary skill in the art at the time

the invention was made to supply a plurality of different herbs within the herb essence suppliers of Daffer, as disclosed by Licciardo, in order to provide a compound herbal effect, such as relaxation.

Regarding Claim 25, Daffer, as modified, discloses the invention substantially as claimed except that one of the combustion-type herb essence supplier is configured to burning wet herbs. However, Wege discloses that supplied herbs can be provided with wet/moist herbs, in contrast to the dry herbs of Han et al. Wege discloses that such wet herbs can supply "moist air". It would have been obvious for one having ordinary skill in the art at the time the invention was made to configure a combustion herb-essence supplier to burn wetted/moist herbs along with the dry herbs of the Han reference, as disclosed by Wege, in order to provide the user with therapeutic moist herb air.

Response to Arguments

15. Examiner's rejection of the "five primary substance stone" comprising a "mixture of powders of...." as recited in the claims prior to the previous amendment (see 06 April 2010) as having a lack of enablement under 35 USC 112 First Paragraph is withdrawn. Examiner submits that the specification is in fact enabled for a "five primary substance stone coating", wherein the coating comprises "a mixture of powders of about 10% to 20% of fulcrum stone [hematite], about 20% to 20% by weight of mastodon bones, about 30% to 40% by weight of elvan, about 10% to 20% by weight of mica, and about 10% to 20% by weight of lodestone". Although mastodon bones are not recognized for any therapeutic effect in the medical arts, one having ordinary skill in the art, would be

capable of making the five primary substance stone as claimed and disclosed based upon the detailed disclosure.

16. The remainder of the arguments with respect to the claims have been considered, but have been found moot in view of the new ground(s) of rejection.

Allowable Subject Matter

17. The following is a statement of reasons for the indication of allowable subject matter: Claim 29 recites subject matter, which if positively requiring the protective suit operatively connected to the herb essence suppliers via a hose and remedying the issues with the claims under 35 USC 112, would be allowable if rewritten in independent form. If the action is unclear, Applicant is encouraged to contact Examiner to discuss the precise wording of the claim which would remedy the failings of the claims over the prior art and 35 USC 112.

Conclusion

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIAM CARPENTER whose telephone number is (571)270-3637. The examiner can normally be reached on Monday through Thursday from 7:00AM-4:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/William Carpenter/
Examiner, Art Unit 3767
03/22/2011

/Theodore J Stigell/

Primary Examiner, Art Unit 3763